

LEGISLATURE OF NEBRASKA

NINETY-NINTH LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 880

Introduced by Flood, 19

Read first time January 5, 2006

Committee: Education

A BILL

- 1 FOR AN ACT relating to the Special Education Act; to amend section
- 2 79-1142, Reissue Revised Statutes of Nebraska; to provide
- 3 for reimbursement for special education costs for certain
- 4 students in residential settings as prescribed; and to
- 5 repeal the original section.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 79-1142, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 79-1142 (1) Level I services refers to services provided
4 to children with disabilities who require an aggregate of not
5 more than three hours per week of special education services
6 and support services and includes all administrative, diagnostic,
7 consultative, and vocational-adjustment counselor services. Support
8 services means preventive services for children from birth to age
9 twenty-one years and, if the child's twenty-first birthday occurs
10 during the school year, until the end of that school year, not
11 identified or verified as having a disability pursuant to sections
12 79-1118.01 and 79-1138 but who demonstrate a need for specially
13 designed assistance in order to benefit from the school's general
14 education curriculum. The total allowable reimbursable cost for
15 support services shall not exceed a percentage, established by the
16 State Board of Education, of the school district's or approved
17 cooperative's total allowable reimbursable cost for all special
18 education programs and support services. The percentage established
19 by the State Board of Education for support services shall not
20 exceed ten percent.

21 (2) For special education and support services provided
22 in each school fiscal year, the State Department of Education shall
23 reimburse each school district in the following school fiscal year
24 a pro rata amount determined by the department from appropriations
25 for special education approved by the Legislature and based on

1 allowable excess costs for all special education programs and
2 support services.

3 (3)(a) For the purpose of assisting school districts in
4 addressing the cost of special education and related services for
5 a school-age child with a disability who is not a ward of the
6 state or a ward of any court and who resides in a residential
7 setting located in Nebraska for reasons other than to receive an
8 education as described in subsection (8) of section 79-215, the
9 department may establish a hardship fund from money appropriated
10 by the Legislature for special education. A school district may
11 apply for reimbursement from such fund, in a pro rata amount to
12 be determined by the department, for the cost of providing special
13 education and related services to high-need school-age children
14 with disabilities. Application may be made in the year the costs
15 are incurred. Any money in such fund which is not expended for
16 such reimbursements in a fiscal year shall be allocated to school
17 districts pursuant to subsection (2) of this section.

18 (b) The department shall establish a schedule each
19 fiscal year for distributions pursuant to subdivision (a) of
20 this subsection. Any costs reimbursed from such fund shall not be
21 eligible for reimbursement in the following year. Money in such
22 fund may be accessed by a school district once per student.

23 (c) A school district shall demonstrate to the
24 satisfaction of the department, on forms prescribed by the
25 department, that (i) the school district, prior to September 20 of

1 the school year in which reimbursement is being requested, did not
2 and reasonably could not have anticipated being responsible for
3 the cost of special education and related services to one or more
4 school-age children with disabilities, as described in subsection
5 (8) of section 79-215, residing in a residential setting located
6 outside the school district, (ii) the cost of special education
7 and related services attributable to such child or children will
8 have an extreme financial impact on the budget of the school
9 district, (iii) such financial impact is greater than (A) three
10 times the average per pupil cost based on average daily membership
11 expenditures in the state for the previous school fiscal year or
12 (B) five percent of the requesting school district's total general
13 fund expenditures for the previous school fiscal year, whichever
14 is less, and (iv) the school district meets the eligibility
15 criteria established by the department for reimbursement pursuant
16 to subdivision (a) of this subsection which at a minimum takes
17 into account the number and percentage of such students served by
18 the school district.

19 ~~(3)~~ (4) Cooperatives of school districts or educational
20 service units shall also be eligible for reimbursement for
21 cooperative programs pursuant to this section if such cooperatives
22 or educational service units have complied with the reporting and
23 approval requirements of section 79-1155 for cooperative programs
24 which were offered the preceding year. The payments shall be made
25 by the department to the school district of residence, cooperative

1 of school districts, or educational service unit each year in a
2 minimum of seven payments between the fifth and twentieth day of
3 each month beginning in December. Additional payments may be made
4 based upon additional valid claims submitted. The State Treasurer
5 shall, between the fifth and twentieth day of each month, notify
6 the Director of Administrative Services of the amount of funds
7 available in the General Fund for payment purposes. The director
8 shall, upon receiving such certification, draw warrants against
9 funds appropriated.

10 Sec. 2. Original section 79-1142, Reissue Revised
11 Statutes of Nebraska, is repealed.